

ATTACHMENT A

Mitigation Monitoring and Reporting Program

1. Project Description

The proposed Project consists of the construction, operation, and maintenance of a new, lined evaporation pond (“Project” or “Pond”) at the microalgae production facility owned and operated by Earthrise Nutritionals, LLC (hereafter, referred to as either “Applicant” or “Discharger”). The Pond will be built on the Applicant’s approximately 189-acre existing facility (“Project Site”) and will be used to receive wastewater generated by the harvesting of algae from the Discharger’s Spirulina Harvest Plant Facility (“SHPF”) and its Linablue Extraction Facility (“LBEF”). The SHPF and LBEF are also located at the Project Site. The annual wastewater discharged to the Pond from the two processes will be approximately 16.6 million gallons. The Pond will be constructed in accordance with the requirements of title 27 of the California Code of Regulations (“Title 27”) for a Class II surface impoundment. The Pond (a.k.a. “EVP-8”) will be lined to prevent infiltration of wastewater into native soil as required by waste discharge requirements (“WDRs”) that will be issued by the Colorado River Basin Regional Water Quality Control Board (“Colorado River Basin Water Board”).

2. Regulatory Background

The Colorado River Basin Water Board is considering the adoption of waste discharge requirements (WDRs) to regulate proposed discharges of waste from the Facility into EVP-8. The Colorado River Basin Water Board is acting as the lead agency pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Res. Code, § 21000 et seq.) On April 12, 2018, the Colorado River Basin Water Board adopted a Mitigated Negative Declaration and Initial Study (MND/IS) for the Project in accordance with the requirements of CEQA.

CEQA requires that agencies adopting mitigated negative declarations take affirmative steps to determine that approved mitigation measures are implemented subsequent to project approval. (Pub. Res. Code, § 21081.6.) Under Public Resources Code section 21081.6, the lead agency must adopt a program for monitoring and reporting on any mitigation measures it has imposed in a negative declaration to assess the implementation of those measures. The Colorado River Basin Water Board has developed a mitigation monitoring and reporting program (MMRP) to implement all mitigation measures identified in the MND/IS as necessary to mitigate or avoid significant environmental effects. The Colorado River Basin Water Board may delegate responsibility to implement mitigation to another public agency or private entity which accepts the delegation; however, the lead agency remains responsible for ensuring implementation of those mitigation measures in accordance with the MMRP.

3. Summary of the MMRP

The Colorado River Basin Water Board determined that mitigation is required to address significant or potentially significant impact(s) to the following resources: Biological Resources and Hydrology/Water Quality. The following table identifies the mitigation measures identified for these resources. For each mitigation measure, the MMRP details the corresponding implementation action, monitoring requirements, and estimated timeframe for completion. To implement the MMRP, the Colorado River Basin Water Board must adopt WDRs for the Project that contain conditions to mitigate against potential environmental impacts. The Colorado River Basin Water Board is considering adoption of the WDRs at its April 12, 2018 Board Meeting.

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
BIOLOGICAL RESOURCES				
<p>Impact Criteria: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</p> <p>Discussion: Burrowing owls, listed as a “California Species of Special Concern” by the California Department of Fish and Wildlife, are abundant in the county and have been found in human-altered habitats such as the Project Area.</p>	<p>MM BR-1: In accordance with guidance issued by the California Department of Fish & Wildlife (“CDFW”) on Burrowing Owl Mitigation (CDFW 2012), a preconstruction take avoidance survey must be conducted on the Project Site and within a 500-foot buffer of the project site, no more than 14 days prior to commencement of Project activities, including equipment staging and site preparation. If burrowing owls are not present, the Project may proceed. If burrowing owl(s) are present, an ornithologist experienced in the ecology of burrowing owl nesting behavior shall be retained to develop appropriate avoidance and minimization measures to ensure that the Project complies with all laws and regulations pertaining to nesting birds and birds of prey. The nesting period for burrowing owls is February 1-August 31).</p>	<p>MM BR-1:</p> <ul style="list-style-type: none"> ● The Discharger must contract with a qualified ornithologist to complete a pre-disturbance nesting survey within 14 days prior to the start of Project activities during the nesting season (i.e., February 1 to August 31). If construction is delayed for more than 30 days, a new survey must be completed. ● If active nests or burrows of the Burrowing Owl are identified within or near the work area, the Discharger must: <ol style="list-style-type: none"> (a) Implement the avoidance measures recommended by the preconstruction take avoidance survey; and (b) Stop work and consult with CDFW prior to resuming construction activities in the vicinity of the nests or burrows. 	<p>MM BR-1: Imperial County Planning and Development Department handles building and grading permits. As a responsible agency for the Project, Imperial County will:</p> <ul style="list-style-type: none"> ● Confirm that a qualified ornithologist has been retained by the Discharger if Project activities occur during the nesting season; and ● Confirm that the Discharger follows recommendations from CDFW regarding any identified nests or burrows of the Burrowing Owl prior to beginning or resuming construction activities. <p>Additionally, the Discharger must forward a copy of any report completed by a qualified ornithologist under this provision to the Colorado River Basin Water Board.</p>	<p>MM BR-1: Pre-disturbance surveys must be conducted within 14 days prior to the start of Project activities that occur between February 1st and August 31st. A copy of any survey completed must be forwarded to the Colorado River Basin Water Board within 10 days of its completion.</p> <p>No action is required if work occurs between September 1st and January 31st.</p>

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
	<p>MM BR-2: The Pond site includes vegetation, mainly Russian thistle, which could provide habitat for other birds covered by the federal Migratory Bird Treaty Act (“MBTA”). To avoid impacts to covered birds and comply with the MBTA, vegetation in the area will be cleared during the non-nesting/non-breeding season for birds, generally between September 1 and January 31.</p> <p>If the vegetation cannot be removed during that period of the year, the clearing of the vegetation in the construction area must be carried out under the supervision of a qualified biologist. This supervision shall include a pre-construction nesting bird survey conducted by a qualified biologist no more than 14 days prior to the start of ground-disturbing activities. The survey must cover the area of the proposed disturbance and a surrounding 500-foot buffer area. The buffer area must be determined by the biologist and will take into account the species nesting in the area and the habitat present. If no active nests are found, no additional measures are required. If “occupied” nests are found, the</p>	<p>MM BR-2:</p> <ul style="list-style-type: none"> • Vegetation in the Project area will be cleared during the non-nesting/non-breeding season for birds, generally between September 1 and January 31. • The Discharger must contract with a qualified biologist to complete a pre-disturbance nesting survey within 14 days prior to work occurring during the nesting season (i.e., February 1 to August 31). If construction is delayed for more than 30 days, a new survey must be completed. • If active nests are identified within or near the work area, the Discharger must: <ol style="list-style-type: none"> (a) Have the nest locations mapped by the biologist, utilizing GPS equipment. The nesting bird species must be documented and, to the degree feasible, the nesting stage (e.g., incubation of eggs, feeding of young, near fledging). (b) Have the biologist establish a no-disturbance buffer around each active nest 	<p>MM BR-2: Imperial County Planning and Development Department handles building and grading permits. As a responsible agency for the Project, Imperial County must:</p> <ul style="list-style-type: none"> • Confirm that a qualified biologist has been retained if site-disturbing activities occur during the nesting season; and • Confirm that the Discharger follows recommendations from CDFW regarding any identified nests prior to beginning or resuming construction activities. <p>Additionally, the Discharger must forward a copy of any report completed by a qualified biologist under this provision to the Colorado River Basin Water Board.</p>	<p>MM BR-2: Pre-disturbance surveys must be conducted within 14 days prior to the start of ground-disturbing activities that occur between February 1st and August 31st. A copy of any survey completed must be forwarded to the Colorado River Basin Water Board within 10 days of its completion.</p> <p>No action is required if work occurs between September 1st and January 31st.</p>

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
	<p>nest locations must be mapped by the biologist, utilizing GPS equipment. The nesting bird species must be documented and, to the degree feasible, the nesting stage (e.g., incubation of eggs, feeding of young, near fledging). The biologist must establish a no-disturbance buffer around each active nest based on the species at issue and the surrounding habitat. No construction or ground-disturbing activities must be conducted within the buffer area until the biologist has determined that the nest is no longer active, and has informed the construction supervisor that activities may resume.</p>	<p>based on the species at issue and the surrounding habitat. No construction or ground-disturbing activities must be conducted within the buffer area until the biologist has determined that the nest is no longer active, and has informed the construction supervisor that activities may resume.</p> <p>(c) Stop work and consult with CDFW prior to resuming construction activities in the vicinity of the nests.</p>		
	<p>MM BR-3: If pre-construction surveys determine either the presence of a special status species or sensitive biological resources, construction monitoring by a qualified biologist will be required during construction. The biologist must be given authority to execute the following functions:</p> <ol style="list-style-type: none"> 1. Establish construction exclusion zones and make recommendations for implementing erosion-control 	<p>MM BR-3: If pre-construction surveys determine either the presence of a special status species or sensitive biological resources, construction monitoring by a qualified biologist will be required during construction.</p>	<p>MM BR-3: Imperial County Planning and Development Department handles building and grading permits. As a responsible agency for the Project, Imperial County must:</p> <ul style="list-style-type: none"> • Confirm that a qualified biologist has been retained for monitoring during construction as needed. • Ensure the qualified biologist has the authority to execute the functions listed as mitigation measures, verify 	<p>MM BR-3: While construction is being undertaken.</p> <p>A copy of any survey completed by a certified biologist must be forwarded to the Colorado River Basin Water Board within 10 days of its completion.</p>

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
	<p>measures in temporary impact areas.</p> <ol style="list-style-type: none"> 2. Ensure all construction activities stay within the staked construction zone and do not go beyond the limits of disturbance. 3. Minimize trimming/removal of vegetation to within the Project impact area. 4. Restrict non-essential equipment to the existing roadways and/or disturbed areas to avoid disturbance to existing adjacent native vegetation. 5. Install and maintain appropriate erosion/sediment control measures, as needed, throughout the duration of work activities. <p>During construction, the biologist must inspect and verify field conditions, as needed, to ensure that wildlife and vegetation adjacent to the construction area are not harmed. He or she must coordinate with the construction foreman and construction crew and must have the authority to immediately stop any activity that has the potential to impact special-status species or</p>		<p>land conditions, coordinate with the construction foreman and crew, and immediately stop any activity that has the potential to impact special-status species or to remove vegetation not specified in the Initial Study.</p> <p>Additionally, the Discharger must forward a copy of any report completed by a qualified biologist under this provision to the Colorado River Basin Water Board.</p>	

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
	vegetation not specified in the Initial Study.			
HYDROLOGY AND WATER QUALITY				
<p>Impact Criteria: Violate any water quality standards or waste discharge requirements? Otherwise substantially degrade water quality?</p> <p>Discussion: Because the discharge of wastewater from the Project could have adverse impacts on surface and groundwater quality if the Pond (i.e., the waste management unit) is not properly operated and maintained, the Regional Water Board will issue WDRs implementing Title 27 requirements to prevent significant water quality degradation.</p> <p>Additionally, the Discharger must obtain coverage under the State General Construction Storm Water NPDES Permit.</p>	<p>MM-HYD-1: Require that the proposed discharge of wastewater is contained (i.e., not be allowed to infiltrate into the ground or to reach surface waters) by implementing Title 27 standards for Class II surface impoundments, including construction, operation and maintenance, closure and post-closure standards.</p>	<p>MM-HYD-1: The following conditions shall be included in the WDRs for the Project:</p> <ul style="list-style-type: none"> • EVP-8 must be constructed, operated, maintained, and eventually closed in accordance with Title 27 prescriptive requirements (see Section C.1 of WDRs) • Require submission and approval of a construction quality assurance (CQA) report prior to commencement of discharge to EVP-8 to ensure EVP-8 will be constructed pursuant to Title 27. (See Section A.6 of WDRs.) 	<p>MM-HYD-1: The Discharger must provide written certification that EVP-8 has been constructed pursuant to the approved CQA report and Title 27. (See Special Provisions Section E.7 and E.8 of the WDRs.)</p>	<p>MM-HYD-1:</p> <ul style="list-style-type: none"> • WDRs Order R7-2018-0007 will be considered for adoption on April 12, 2018. • Two-weeks prior to constructing each phase of EVP-8 (e.g., preparing foundation, installing liner, installing leak detection system, etc.), the Discharger must notify the Colorado River Basin Water Board Executive Officer in writing. (See Section E.7 of WDRs.) • Prior to beginning discharge of waste into EVP-8, the Discharger must receive a final inspection and written approval from the Executive Officer. (See Section E.8 of WDRs.)
	<p>MM-HYD-2: Prescribe a prohibition of discharge to EVP-8 of “hazardous waste” as defined by Title 27.</p>	<p>MM-HYD-2: The following conditions shall be included in the WDRs for the Project:</p>	<p>MM-HYD-2: Not applicable, as the discharge prohibition and monitoring requirements will be adopted in WDRs Order R7-2018-0007 as part of Project approval.</p>	<p>MM-HYD-2: WDRs Order R7-2018-0007 will be considered for adoption on April 12, 2018.</p>

ATTACHMENT A

Mitigation Monitoring and Reporting Program

CEQA Mitigation Designation	Mitigation Measures	Implementation	Monitoring and Reporting	Timeframe
		<ul style="list-style-type: none"> The discharge of “hazardous waste” is prohibited. For the purposes of this Order, the term “hazardous waste” is as defined in California Code of Regulations, title 27, section 20164. (See Section A.1 of WDRs.) <p>Further, the WDRs shall be drafted to require monitoring of the discharge of waste to EVP-8 as long as EVP-8 is operational. (See MRP R7-2018-0007.)</p>		
	<p>MM-HYD-3: Prescribe a comprehensive Monitoring and Reporting Program in the WDRs that will monitor the constituents of concern in the wastewater discharged to EVP-8.</p>	<p>MM-HYD-3: A monitoring and reporting program shall be established to accompany WDRs regulating the discharge from the Project. (See Section E.2 of the WDRs and MRP R7-2018-0007.)</p>	<p>MM-HYD-3: Not applicable, as MRP R7-2018-0007 will be adopted as part of Project approval.</p>	<p>MM-HYD-5: The proposed monitoring and reporting program is set forth in MRP R7-2018-0007, which will be considered for adoption on April 12, 2018.</p>